

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

AMY GRAY,

Plaintiff,

v.

CITY OF HENDERSON, et al.,

Defendants.

2:10-cv-356-RCJ-RJJ

ORDER

Currently before the Court are numerous motions filed by Plaintiff Amy Gray. The Court previously dismissed Plaintiff's second amended complaint and ordered that the U.S. Marshal serve Defendants upon Plaintiff's filing of a third amended complaint. (Order (#100) at 4-5).

Because the Court dismissed Plaintiff's second amended complaint for failure to state a claim on June 7, 2012 and ordered the U.S. Marshal to properly serve all Defendants upon the filing of the third amended complaint, Plaintiff's motions ##73, 74, 79, 81, 82, 89 are denied as moot.

Plaintiff also requests in these motions that the Court rule on all motions filed by her from January 1, 2011 through March 2012. (Motion for Order (#73) at 10). However, these motions were previously dismissed by this Court, and with the dismissal of the second amended complaint have been rendered moot.

Plaintiff's motion for pretrial conference (#87) is denied because the second amended complaint has been dismissed and Plaintiff has not yet filed her third amended complaint.

Plaintiff has also filed motions stating that she has already complied with the Court's order dated June 7, 2012 because she submitted a motion to file a proposed third amended

1 complaint on March 22, 2011 which was denied as moot by this Court. (See, e.g., Motion to
2 Have Subpoenas Served (#101) at 1-2). As this motion to amend was not granted, the
3 proposed third amended complaint filed on March 22, 2011 was never accepted by this Court.
4 Plaintiff's proposed third amended complaint filed on March 22, 2011 consequently does not
5 comply with this Court's order that Plaintiff file a third amended complaint. Plaintiff must
6 therefore file a new third amended complaint and may not rely on the proposed third amended
7 complaint filed over a year ago on March 22, 2011. Furthermore, the proposed third amended
8 complaint filed on March 22, 2011 is substantially similar to the second amended complaint
9 and would be subject to dismissal on the same grounds. As Plaintiff has not yet filed a third
10 amended complaint in compliance with this Court's order, her motions for an order requiring
11 the U.S. Marshal to serve Defendants (##101, 102) are denied.

12 Plaintiff's motion for the U.S. Marshal to provide a list of Defendants served (#105) is
13 denied. All Defendants must be served with a copy of the complaint, and as Plaintiff has not
14 yet filed a third amended complaint with this Court, granting this motion would be futile as all
15 Defendants who were previously served must be reserved with a copy of the third amended
16 complaint. See FED. R. CIV. P. 4(c).

17 Plaintiff also seeks an extension of time to serve Defendants and possibly file an
18 amended complaint. (Mot. to Amend Compl. & Extend Time (#106) at 1-3). As there was
19 apparently some confusion as to whether Plaintiff had already filed a third amended complaint,
20 an extension of time to file a third amended complaint and serve Defendants will be granted.
21 Plaintiff will be given an additional twenty (20) days from the date of this order to file a third
22 amended complaint that sufficiently states claims against all named Defendants. If Plaintiff
23 fails to comply with this deadline, this action will be dismissed with prejudice.

24 CONCLUSION

25 For the foregoing reasons, IT IS ORDERED that Plaintiff's motions ##73, 74, 79, 81,
26 82, 87, 89, 101, 102, 105 are DENIED.

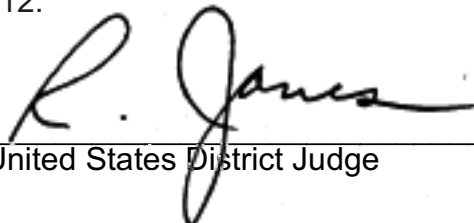
27 IT IS FURTHER ORDERED that Plaintiff's motion to amend and extend time (#106) is
28 GRANTED. Plaintiff shall have twenty (20) days from the date of this order to correct any

1 deficiencies and file a third amended complaint.

2 IT IS FURTHER ORDERED that upon filing of the third amended complaint, the Clerk
3 of the Court shall issue summons to Defendant(s) therein and deliver same to the U.S.
4 Marshal for service. The Clerk shall send Plaintiff sufficient copies of the third amended
5 complaint and service of process forms (USM-285) for each Defendant. Plaintiff shall have
6 twenty (20) days in which to furnish the U.S. Marshal the required forms USM-285. Within
7 twenty (20) days after receiving from the U.S. Marshal a copy of the USM-285 form showing
8 whether service has been accomplished, Plaintiff must file a notice with the court identifying
9 which Defendants were served and which were not served, if any. If Plaintiff wishes to have
10 service again attempted on any unserved Defendant, then a motion must be filed with the
11 Court identifying the unserved Defendant(s) and specifying a more detailed name and/or
12 address for said Defendant, or whether some other manner of service should be attempted.
13 Plaintiff is reminded that, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure,
14 service must be accomplished within one hundred twenty (120) days of the date of filing of the
15 third amended complaint.

16 IT IS FURTHER ORDERED that henceforth, Plaintiff shall serve upon Defendants or,
17 if appearance has been entered by counsel, upon the attorney(s) a copy of every pleading,
18 motion or other document submitted for consideration by the Court. Plaintiff shall include with
19 the original paper to be filed with the Clerk of the Court a certificate stating the date that a true
20 and correct copy of the document was mailed to the Defendants or counsel for Defendants.
21 The Court may disregard any paper received by a District Judge or a Magistrate Judge which
22 has not been filed with the Clerk of the Court, and any paper received by a District Judge,
23 Magistrate Judge or Clerk of the Court which fails to include a certificate of service.

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25 DATED: this 3rd day of August, 2012.

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28 United States District Judge